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Counsel for Defendant SMITH

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

ROBERT SMITH,

Defendant.

No. CR-06-0172 CRB

**STIPULATION AND [PROPOSED]  
ORDER TO CONTINUE HEARING ON  
DEFENDANT'S MOTION TO  
SUPPRESS**

On May 1, 2006, defendant Robert Smith appeared before this Court with his counsel, David W. Fermino. Mr. Fermino advised the Court that the defendant intended to file a motion to suppress statements he allegedly made to arresting agents. The Court directed the parties to agree to a briefing schedule and set the matter for hearing on June 8, 2006.

Subsequently, undersigned counsel assumed responsibility for the case. Undersigned counsel has not yet had an opportunity to review the discovery and prepare the motion to suppress. Moreover, undersigned counsel will be unavailable from June 12, 2006 through June 22, 2006. Government counsel will be in trial the week of June 26, 2006, and will be unavailable the weeks of July 3, 2006 and July 10, 2006.


Accordingly, the parties hereby agree and stipulate that the motions hearing presently set

1 for June 8, 2006 shall be continued to July 26, 2006 at 2:15 PM. The parties further agree and  
 2 stipulate that the defendant shall file his motion on or before June 28, 2006. The government  
 3 shall file any opposition to defendant's motion on or before July 21, 2006. The defendant shall  
 4 file any reply on or before July 24, 2006.


5 The parties further agree and stipulate that the time between May 1, 2006 and July 26,  
 6 2006 shall be excluded under the Speedy Trial Act. The parties agree that the requested  
 7 continuance is appropriate in the interests of continuity and effective preparation of counsel.

8 IT IS SO STIPULATED.

9 Dated: 6/6/06

  
 BARRY J. PORTMAN  
 Federal Public Defender  
 JOSH COHEN  
 Assistant Federal Public Defender

12 Dated: 6/6/06

  
 KEVIN V. RYAN  
 United States Attorney  
 MICHELLE MORGAN-KELLY  
 Assistant United States Attorney

# 18 ORDER

19 Accordingly, and for good cause shown, the Court orders that the motions hearing  
 20 presently scheduled for June 8, 2006 shall be continued to July 26, 2006 at 2:15 PM. The parties  
 21 are directed to adhere to the briefing schedule described above.

22 The Court further orders that the time from May 1, 2006 through July 26, 2006 shall be  
 23 excluded under the Speedy Trial Act. The Court finds that the ends of justice served by granting  
 24 the requested continuance outweigh the best interest of the public and the defendant in a speedy  
 25 trial. This finding is based on the Court's determination that the failure to grant the continuance  
 26 would deny the defendant continuity of counsel and the reasonable time necessary for effective

1 preparation of his defense, taking into account the exercise of due diligence. *See* 18 U.S.C. §  
2 3161(h)(8)(A) & (B)(iv).

3 IT IS SO ORDERED.

4 Dated: June 8, 2006

